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HOUSE BILL 1106

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO ANIMALS; ENACTING THE PET OWNER RESPONSIBILITY ACT;
REQUIRING DOGS AND CATS TO BE SPAYED OR NEUTERED; PROVIDING
EXCEPTIONS; IMPOSING PENALTIES; PROVIDING FOR A SPAY OR NEUTER
AGREEMENT; PROVIDING SERVICES TO LOW-INCOME PERSONS; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Pet Owner Responsibility Act".

Section 2. DEFINITIONS.--As used in the Pet Owner
Responsibility Act:

A. "animal control authority" means an entity
authorized to enforce animal control laws of a municipality,
county or the state, whether acting alone or in concert with
other governmental or private entities. In those areas of the

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1 state where there is no separate entity authorized to enforce
2 animal control laws, a sheriff or municipal law enforcement
3 agency shall be the animal control authority;

4 B. "animal shelter" means a facility operated
5 publicly or privately, in which abandoned, stray, lost or
6 unwanted dogs and cats are temporarily housed;

7 C. "intact" means a dog or cat that has not been
8 spayed or neutered;

9 D. "low-income person" means a person who possesses
10 an electronic benefit transfer card issued by the state for
11 food stamps or the temporary assistance for needy families
12 program, a medicaid health benefit card or a person who submits
13 an affidavit to an animal control authority that the person's
14 income is fifty percent or less of the medium gross income for
15 the state adjusted for family size and as determined by the
16 United States department of housing and urban development;

17 E. "purebred dog or cat breeder" means a person
18 whose dog or cat has produced multiple litters of puppies or
19 kittens of a purebred breed of dog or cat sanctioned by a
20 recognized national dog or cat registry;

21 F. "purebred dog or cat fancier" means a person
22 having an intact dog or cat that has entered a show or event of
23 a recognized national dog or cat registry at least once a year
24 or has a dog or cat with a title from a recognized national dog
25 or cat registry and that belongs to a kennel or cat fancier

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1 club with a code of ethics of a recognized national dog or cat
2 registry;

3 G. "professional handler" means a person who
4 trains, kennels or exhibits a customer's dog or cat as a source
5 of income at events sanctioned by a recognized national dog or
6 cat registry; and

7 H. "working dog" means:

8 (1) a dog used primarily for the purpose of
9 driving, tending, working or protecting livestock;

10 (2) a police dog;

11 (3) a military dog;

12 (4) a search, rescue and recovery dog;

13 (5) a dog used in the work of a guide or
14 outfitter registered pursuant to Sections 17-2A-1 through
15 17-2A-3 NMSA 1978; or

16 (6) a dog being trained for any of the
17 purposes listed in this subsection.

18 Section 3. RESPONSIBILITY.--

19 A. Except as provided in Section 4 of the Pet Owner
20 Responsibility Act, a person who owns an intact dog or cat
21 older than six months shall have the dog or cat spayed or
22 neutered.

23 B. The veterinarian spaying or neutering the dog or
24 cat pursuant to Subsection A of this section shall issue a
25 certificate, receipt or other documentation to the owner

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1 evidencing that the dog or cat has been spayed or neutered, and
2 the owner shall retain the certificate, receipt or
3 documentation as evidence of that fact.

4 Section 4. EXCEPTIONS.--Section 3 of the Pet Owner
5 Responsibility Act does not apply when the person who owns an
6 intact dog or cat:

7 A. has a certificate from a veterinarian licensed
8 in this state certifying that the dog or cat is medically unfit
9 to undergo the required spay or neuter procedure for a specific
10 amount of time, including permanently, and the exception
11 allowed by this subsection shall only be for that period of
12 time;

13 B. is a purebred dog or cat breeder, purebred dog
14 or cat fancier or professional handler;

15 C. owns a working dog;

16 D. is an animal shelter and is complying with the
17 Pet Sterilization Act;

18 E. is a nonresident of this state and is in the
19 state with a dog or cat for not more than thirty days within a
20 calendar year;

21 F. has an intact animal permit issued pursuant to
22 the Pet Owner Responsibility Act; or

23 G. has already registered as having intact animals
24 in another jurisdiction within New Mexico.

25 Section 5. INTACT PERMIT.--A person who owns an intact

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1 dog or cat over the age of six months shall be exempt from the
2 spay or neuter requirement in Section 3 of the Pet Owner
3 Responsibility Act by annually applying for and receiving an
4 intact dog or cat permit from the county clerk or animal
5 control authority having jurisdiction over the residence of the
6 dog or cat.

7 Section 6. ENFORCEMENT--CIVIL PENALTIES--WAIVER.--

8 A. Except as provided in Subsection C of this
9 section, if an animal control authority discovers an intact dog
10 or cat over the age of six months in violation of Section 3 of
11 the Pet Owner Responsibility Act, the animal control authority
12 shall assess the owner of the dog or cat a civil penalty of
13 fifty dollars (\$50.00) for a first violation and a civil
14 penalty of one hundred dollars (\$100) for a second and each
15 subsequent violation unless the owner can prove an exemption
16 pursuant to Section 4 of the Pet Owner Responsibility Act.

17 B. The animal control authority may bring an action
18 in magistrate court for the collection of a civil penalty
19 assessed pursuant to this section, and any penalty collected
20 shall be credited to the general fund of the municipality,
21 county or state that the animal control authority represents.

22 C. Upon a first violation, the civil penalty shall
23 be waived if the dog or cat owner agrees in writing with the
24 animal control authority at the time of the discovery of the
25 violation to have the dog or cat spayed or neutered within

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1 thirty days of the violation. If the owner breaches the
2 agreement, the civil penalty shall be reinstated. The
3 municipality, county or state having jurisdiction over the
4 animal control authority shall pay the cost of spaying or
5 neutering a dog or cat for a low-income person.

6 Section 7. NO PREEMPTION.--The Pet Owner Responsibility
7 Act does not preempt a local ordinance or resolution that
8 mandates the spaying or neutering of dogs or cats.

9 Section 8. APPROPRIATION.--One million dollars
10 (\$1,000,000) is appropriated from the general fund to the
11 animal care and facility fund contingent upon the adoption of
12 Senate Bill 458 or House Bill 453 during the first session of
13 the forty-eighth legislature or, if neither bill is adopted, to
14 the local government division of the department of finance and
15 administration for expenditure in fiscal year 2008 for
16 distribution to municipalities and counties to fund spay and
17 neuter services for animals of low-income persons. Any
18 unexpended or unencumbered balance remaining at the end of
19 fiscal year 2008 shall revert to the general fund.

20 Section 9. EFFECTIVE DATE.--The effective date of the
21 provisions of Sections 1 through 5, 7 and 8 of this act is July
22 1, 2007. The effective date of the provisions of Section 6 of
23 this act is July 1, 2008.